

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
)	File No. EB-09-IH-0407
NEW BEGINNING WORLD OUTREACH,)	NAL/Acct. No. 201132080009
INC.)	FRN No. 0016948523
)	Facility ID No. 173198
Licensee of Noncommercial Educational)	
Station WNBV(FM), Grundy, Virginia)	

ORDER

Adopted: April 14, 2011

Released: April 15, 2011

By the Acting Chief, Investigations and Hearings Division, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (the “Bureau”) and New Beginning World Outreach, Inc. (the “Licensee”). The Consent Decree terminates an investigation by the Bureau against the Licensee for possible violations of section 399B of the Communications Act of 1934, as amended,¹ and section 73.503(d) of the Commission’s Rules² regarding the broadcast of underwriting announcements over noncommercial educational Station WNBV(FM), Grundy, Virginia.

2. The Bureau and the Licensee have negotiated the terms of the Consent Decree that resolve this matter. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the investigation.

4. In the absence of material new evidence relating to this matter, we conclude that our investigation raises no substantial or material questions of fact as to whether the Licensee possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

5. Accordingly, **IT IS ORDERED** that, pursuant to section 4(i) of the Communications Act of 1934, as amended,³ and sections 0.111 and 0.311 of the Commission’s Rules,⁴ the Consent Decree attached to this Order **IS ADOPTED**.

¹ See 47 U.S.C. § 399b.

² See 47 C.F.R. § 73.503(d).

³ See 47 U.S.C. § 154(i).

⁴ See 47 C.F.R. §§ 0.111, 0.311.

6. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED**.

7. **IT IS FURTHER ORDERED** that the third-party complaints against the Licensee before the Enforcement Bureau related to the above-captioned investigation as of the date of this Consent Decree **ARE DISMISSED**.

8. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class certified mail, return receipt requested, to New Beginning World Outreach, Inc., P.O. Box 100, Bishop, Virginia 24604.

FEDERAL COMMUNICATIONS COMMISSION

Theresa Z. Cavanaugh
Acting Chief
Investigations and Hearings Division
Enforcement Bureau

Underwriting Laws in connection with its operation of the Station from March 19, 2009, to May 13, 2010.

- (e) “Compliance Plan” means the program described in this Consent Decree at paragraph 9.
- (f) “Effective Date” means the date on which the Commission releases the Adopting Order.
- (g) “Investigation” means the investigation concerning the Complaints⁵ and commenced by the Bureau’s Letters of Inquiry⁶ regarding whether the Licensee violated the Commission’s Underwriting Laws in connection with its operation of the Station from March 19, 2009, to May 13, 2010.
- (h) “Licensee” means New Beginning World Outreach, Inc. and its predecessors-in-interest and successors-in-interest.
- (i) “Order” or “Adopting Order” means an Order of the Commission adopting the terms of this Consent Decree without change, addition, deletion, or modification.
- (j) “Parties” means the Licensee and the Bureau, and each is a “Party.”
- (k) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (l) “Stations” means noncommercial educational Station WNBV(FM), Grundy, Virginia (Facility ID No. 173198).
- (m) “Underwriting Laws” means 47 U.S.C. § 399b and 47 C.F.R. § 73.503(d).

II. BACKGROUND

3. The Underwriting Laws define advertisements as program material broadcast “in exchange for any remuneration” and intended to “promote any service, facility, or product” of for-profit entities.⁷ Section 399B(b)(2) specifically provides that noncommercial educational stations may not broadcast advertisements.⁸ Although contributors of funds to such stations may receive on-air acknowledgements of their support, the Commission has held that such acknowledgements may be made for identification purposes only, and should not promote the contributors’ products, services, or businesses.⁹ Specifically, such announcements may not contain comparative or qualitative descriptions, price information, calls to action, or inducements to buy, sell, rent or lease.¹⁰ At the same time, however,

Bureau, Federal Communications Commission, to New Beginning World Outreach, Inc., dated July 20, 2010 (“LOI III”).

⁵ See *supra* note 3.

⁶ See *supra* note 4.

⁷ See 47 U.S.C. § 399b(a).

⁸ See 47 U.S.C. § 399b(b)(2).

⁹ See *Commission Policy Concerning the Noncommercial Nature of Educational Broadcasting Stations*, Public Notice (1986), *republished*, 7 FCC Rcd 827 (1992).

¹⁰ See *id.*

the Commission has acknowledged that it is at times difficult to distinguish between language that promotes versus that which merely identifies the underwriter and is consistent with the Commission's Rules and decisions establishing compliant underwriting announcements. Consequently, the Commission expects licensees to exercise reasonable, "good faith" judgment in this area, and affords some latitude to the judgments of licensees who do so.¹¹

4. On April 1, 2009, the Commission received a complaint alleging that the Licensee was "selling fully produced commercials for just one dollar per announcement."¹² The complaint also provided a recording of material broadcast by the Station.¹³ Based on these materials, it appeared that the Licensee had aired various prohibited commercial announcements. Therefore, on May 27, 2009, and October 21, 2009, the Bureau issued letters of inquiry to the Licensee, which directed the Licensee, among other things, to submit sworn written statements in response to questions relating to allegations that the Licensee had aired announcements in violation of the Underwriting Laws.¹⁴ The Licensee responded on July 15, 2009, July 30, 2009, and January 5, 2010.¹⁵ Subsequently, on May 27, 2010, the Commission received a further complaint and accompanying recording alleging that the Licensee had aired additional "full commercial announcements with calls to action" and "continue[d] to solicit donations."¹⁶ Thus, the Bureau inquired of the Licensee regarding this second complaint on July 20, 2010, and the Licensee responded on August 16, 2010.¹⁷ The announcements, which were referenced in the Complaints and were broadcast over the Station, may have violated the Underwriting Laws because they contain language that appears to exceed the bounds of what is permissible and within licensee discretion under the Act and pertinent Commission precedent.¹⁸

III. TERMS OF AGREEMENT

5. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order without change, addition, modification, or deletion.

6. **Jurisdiction.** The Licensee agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

¹¹ See *Xavier University*, Letter of Admonition, issued November 14, 1989 (Mass Med. Bur.) ("*Xavier*"), *recons. granted*, Memorandum Opinion and Order, 5 FCC Rcd 4920 (1990).

¹² See Complaint I, *supra* note 3.

¹³ See *id.* at Attachment.

¹⁴ See LOI I & LOI II, *supra* note 4.

¹⁵ See Letter from John C. Dash III, New Beginning World Outreach, Inc., to Federal Communications Commission, filed July 15, 2009; Letter from John C. Dash III, New Beginning World Outreach, Inc., to Federal Communications Commission, filed July 30, 2009; Letter from John C. Dash III, New Beginning World Outreach, Inc., to Federal Communications Commission, filed January 5, 2010.

¹⁶ See Complaint II, *supra* note 3.

¹⁷ See LOI III, *supra* note 4; Letter from John C. Dash III, New Beginning World Outreach, Inc. to Federal Communications Commission, filed August 16, 2010.

¹⁸ See *Xavier*, *supra* note 11.

7. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the date on which the FCC releases the Adopting Order. Upon release, the Adopting Order and this Consent Decree shall have the same force and effect as any other Order of the Bureau. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Bureau Order, entitling the Bureau to exercise any rights and remedies attendant to the enforcement of a Commission Order.

8. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate its Investigation and dismiss the Complaints. In consideration for the termination of the Investigation and dismissal of the Complaints, the Licensee agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that, in the absence of new material evidence, the Bureau will not use the facts developed in this Investigation through the Effective Date of the Consent Decree, or the existence of this Consent Decree, to institute, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against the Licensee concerning the matters that were the subject of the Investigation. The Bureau also agrees that it will not use the facts developed in this Investigation through the Effective Date of this Consent Decree, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against the Licensee with respect to the Licensee's basic qualifications, including its character qualifications, to be a Commission licensee.

9. **Compliance Plan.** For purposes of settling the matters set forth herein, the Licensee agrees to maintain a Compliance Plan related to future compliance with the Act, the Rules, as well as Commission's Orders. The Compliance Plan shall include, at a minimum, the following components:

a. **Compliance Officer.** Within thirty (30) days of the Effective Date, Licensee will designate a senior corporate manager ("Compliance Officer") who is responsible for administering the Compliance Plan.

b. **Review Procedure.** Within thirty (30) days of the Effective date, Licensee will implement a multi-level review procedure for underwriting content to be broadcast on the Station. All scripts of announcements will continue to be reviewed by the Licensee or its staff, prior to broadcast, for compliance with the Underwriting Laws.

c. **Training.** Within thirty (30) days of the Effective Date, the Licensee will train employees on acceptable underwriting content that complies with the Underwriting Laws. Within thirty (30) days of being hired by the Licensee, any new Station employee will be trained as to acceptable underwriting content that complies with the Underwriting Laws. In addition, the Licensee's Station employees will receive refresher training, on an annual basis, regarding existing guidelines and, where applicable, pertinent changes to the Underwriting Laws.

d. **Education of Underwriters.** Licensee will also implement and maintain a plan to educate prospective underwriters about appropriate underwriting content and how the Licensee incorporates such underwriting content in the messages that it prepares for underwriter approval and eventual broadcast. To that end, beginning on the Effective Date, the Licensee will summarize the Underwriting Laws for each client before it accepts any contract with the prospective underwriter to air underwriting messages over the Station and prepares the underwriting message for the underwriter's review. The Licensee will not broadcast any announcement that does not comply with the Underwriting Laws.

e. **Termination Date.** Unless stated otherwise, the requirements of this Compliance Plan will expire (3) years after the Effective Date.

10. **Compliance Reports.** The Licensee shall file compliance reports with the Commission ninety (90) days after the Effective Date, twelve (12) months after the Effective Date, twenty-four (24) months after the Effective Date, and upon expiration of this Consent Decree, three (3) years after the Effective Date. Each compliance report shall include a compliance certificate from the Compliance Officer, as defined in paragraph 9.a. of this Consent Decree, as an agent of the Licensee, stating that the Compliance Officer has personal knowledge that the Licensee: (i) has established operating procedures intended to ensure compliance with the terms and conditions of this Consent Decree and the Underwriting Laws, together with an accompanying statement explaining the basis for the Compliance Officer's certification; (ii) has been utilizing those procedures since the previous Compliance Report was submitted; and (iii) is not aware of any instances of non-compliance. The certification must comply with Section 1.16 of the Commission's Rules¹⁹ and be subscribed to as true under penalty of perjury in substantially the form set forth therein. If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of the Licensee, shall provide the Commission with a detailed explanation of: (i) any instances of non-compliance with this Consent Decree and the Underwriting Laws; and (ii) the steps that the Licensee has taken or will take to remedy each instance of non-compliance and ensure future compliance, and the schedule on which proposed remedial actions will be taken. All compliance reports shall be submitted to the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, Room 4-C330, 445 12th Street, S.W., Washington, D.C. 20554, with a copy submitted electronically to Kenneth M. Scheibel, Jr., at Kenneth.Scheibel@fcc.gov, Anjali Singh at Anjali.Singh@fcc.gov, and Amelia Brown at Amelia.Brown@fcc.gov.

11. **Voluntary Contribution.** The Licensee agrees that it will make a voluntary contribution to the United States Treasury in the amount of \$3,450 in eight (8) installments of \$431.25. The first payment will be made within thirty (30) days of the Effective Date of the Adopting Order, with subsequent installment payments made every two months thereafter, by the same date of the Effective Date of the Adopting Order, until the voluntary contribution amount is fully satisfied. The payment(s) must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment(s) must include the NAL/Account Number and FRN Number referenced in the caption to the Adopting Order. Payment(s) by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment(s) by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment(s) by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment(s) by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code). The Licensee will also send electronic notification on the date said payment(s) are made to Kenneth.Scheibel@fcc.gov, Anjali.Singh@fcc.gov, and Amelia.Brown@fcc.gov.

12. **Waivers.** The Licensee waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Order adopting this Consent Decree, provided the Commission issues an Order adopting the Consent Decree without change, addition, modification, or deletion. The Licensee shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to

¹⁹ See 47 C.F.R. § 1.16.

enforce the terms of the Adopting Order, neither the Licensee nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and the Licensee shall waive any statutory right to a trial *de novo*. The Licensee hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

13. **Invalidity.** In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

14. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent rule or Order adopted by the Commission (except an Order specifically intended to revise the terms of this Consent Decree to which the Licensee does not expressly consent) that provision will be superseded by such Commission rule or Order.

15. **Successors and Assigns.** The Licensee agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

16. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties. The Parties further agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the requirements of the Act or the Commission's Rules and Orders. The Parties agree that this Consent Decree is for settlement purposes only and that by agreeing to this Consent Decree, the Licensee does not admit or deny noncompliance, violation or liability for violating the Act, the Commission's Rules or Orders in connection with the matters that are the subject of this Consent Decree.

17. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

18. **Paragraph Headings.** The headings of the Paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

19. **Authorized Representative.** Each party represents and warrants to the other that it has full power and authority to enter into this Consent Decree.

20. **Counterparts.** This Consent Decree may be signed in any number of counterparts (including by facsimile), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

Theresa Z. Cavanaugh
Acting Chief
Investigations and Hearings Division
Enforcement Bureau

Date

John C. Dash III
President
New Beginning World Outreach, Inc.

Date